

## § 1653.36

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### § 1653.36 Payment.

(a) Payment pursuant to a qualifying tax levy or criminal restitution order will be made 30 days after the decision letter.

(b) In no case will payment exceed the participant's calculated entitlement.

(c) The entire amount of a criminal restitution order or tax levy entitlement must be disbursed at one time. A series of payments will not be made. A payment pursuant to a criminal restitution order or tax levy extinguishes all rights to any further payment under that order or tax levy, even if the entire amount of the entitlement cannot be paid. Any further award must be contained in a separate criminal restitution order or tax levy.

(d) If a participant has funds in more than one type of account, payment will be made from each account in the following order, until the amount required by the tax levy or stated in the enforcement letter is reached:

- (1) Civilian account;
- (2) Uniformed services account;
- (3) Beneficiary participant account.

(e) Payment will be made pro rata from the participant's traditional and Roth balances. The distribution from the traditional balance will be further pro rated between the tax-deferred balance and tax-exempt balance. The payment from the Roth balance will be further pro rated between contributions in the Roth balance and earnings in the Roth balance. In addition, all payments will be distributed pro rata from all TSP core funds in which the participant's account is invested. All pro rated amounts will be based on the balances in each fund or source of contributions on the day the disbursement is made.

(f) The payment is taxable to the participant and is subject to Federal income tax withholding. The tax withholding will be taken from the payee's entitlement and the gross amount of the payment (*i.e.*, the net payment distributed to the payee plus the amount withheld from the payment for taxes) will be reported to the IRS as income to the participant.

(g) A properly paid tax levy or restitution order cannot be returned to the TSP.

(h) The TSP will not hold a payment pending appeal of a criminal restitution order or the underlying conviction. The TSP will treat the criminal restitution order as a final judgment pursuant to 18 U.S.C. 3664(o) and process payment as provided by this subpart.

[79 FR 53604, Sept. 10, 2014, as amended at 80 FR 52606, Sept. 1, 2015; 87 FR 31692, May 24, 2022]

## PART 1655—LOAN PROGRAM

### Sec.

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AUTHORITY: 5 U.S.C. 8432d, 8433(g), 8439(a)(3) and 8474.

SOURCE: 68 FR 35515, June 13, 2003, unless otherwise noted.

### § 1655.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this part:

*Amortization means* the reduction in a loan by periodic payments of principal and interest according to a schedule of payments.

*Cure period means* the period set forth at § 1655.14(e).

*Deemed distribution means* a deemed distribution under Internal Revenue Code section 72(p) and the regulations promulgated thereunder. Also referred to as a loan taxation or taxed loan, it means the amount of outstanding principal and interest on a loan that must

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be reported to the Internal Revenue Service as taxable income as a result of the failure of a participant who has not separated from Government service to:

- (i) Make timely loan repayments before the end of the cure period; or
- (ii) Repay the loan in full by the maximum term limit.

*General purpose loan* means any TSP loan other than a loan for the purchase or construction of a primary residence.

*Guaranteed funds* means a cashier's check, money order, certified check (i.e., a check certified by the financial institution on which it is drawn), cashier's draft, or treasurer's check from a credit union.

*Loan direct debit repayment* means a loan repayment made directly from a participant's personal savings or checking account.

*Loan issue date* means the date on which the TSP record keeper disburses funds from the participant's account for the loan amount.

*Loan offset* means a loan offset under Internal Revenue Code section 72(p) and the regulations promulgated thereunder. Also referred to as a loan foreclosure, it means the amount of outstanding principal and interest on a loan that must be reported to the Internal Revenue Service as taxable income as the result of the failure of a participant who has separated from Government service to repay his or her loan in full or begin making repayments by the deadline imposed by the TSP record keeper.

*Loan repayment period* means the time over which payments that are required to repay a loan in full are scheduled.

*Principal* or *principal amount* means the amount borrowed by a participant from his or her individual account, or, after reamortization, the amount financed.

*Reamortization* means the recalculation of periodic payments of principal and interest.

*Residential loan* means a TSP loan for the purchase or construction of a primary residence.

[68 FR 35515, June 13, 2003, as amended at 70 FR 32217, June 1, 2005; 87 FR 31692, May 24, 2022]

EDITORIAL NOTE: At 87 FR 31692, May 24, 2022, in §1655.1 a definition of "date of re-

quest" was set out; however, the amendment could not be incorporated because no action was given for it.

### § 1655.2 Eligibility for loans.

A participant can apply for a TSP general purpose or residential loan if:

(a) More than 30 business days have elapsed since the participant has repaid in full any TSP loan;

(b) The participant is in pay status;

(c) The participant is eligible to contribute to the TSP; and

(d) The participant has at least \$1,000 in employee contributions and attributable earnings in his or her account. Paragraph (b) of this section shall not apply to loan requests made during a Government shutdown by participants who are furloughed or excepted from furlough due to the Government shutdown.

[87 FR 31692, May 24, 2022]

### § 1655.3 Information concerning the cost of a loan.

Information concerning the cost of a loan is provided in the booklet TSP Loan Program (available on the TSP Web site, from the participant's personnel office or service, or from the TSP). From this information, a participant can determine the effects of a loan on his or her final account balance and can compare the cost of a loan to that of other sources of financing.

[68 FR 35515, June 13, 2003, as amended at 87 FR 31692, May 24, 2022]

### § 1655.4 Number of loans.

A participant may have no more than two loans outstanding from his or her TSP account at any time. No more than one outstanding loan from an account may be a residential loan. A participant with both a civilian TSP account and a uniformed services TSP account may have two outstanding loans from each account.

[87 FR 31692, May 24, 2022]

### § 1655.5 Loan repayment period.

(a) *Minimum*. The minimum repayment period a participant may request for a general purpose loan is 12 months of scheduled payments. The minimum

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repayment period a participant may request for a residential loan is 61 months of scheduled payments.

(b) *Maximum.* The maximum repayment period a participant may request for a general purpose loan is 60 months of scheduled payments. The maximum repayment period a participant may request for a residential loan is 180 months years of scheduled payments.

[87 FR 31692, May 24, 2022]

### § 1655.6 Amount of loan.

(a) *Minimum amount.* The initial principal amount of any loan may not be less than \$1,000.

(b) *Maximum amount.* The principal amount of a new loan must be less than or equal to the smallest of the following:

(1) The portion of the participant's individual account balance that is attributable to employee contributions and attributable earnings (not including any outstanding loan principal);

(2) 50 percent of the participant's vested account balance that is attributable to employee contributions and attributable earnings (including any outstanding loan balance) or \$10,000, whichever is greater, minus any outstanding loan balance; or

(3) \$50,000 minus the participant's highest outstanding loan balance (if any) during the last 12 months.

(c) If a participant has both a civilian TSP account and a uniformed services TSP account, the maximum loan amount available will be based on a calculation that takes into consideration the account balances and outstanding loan balances for both accounts.

(d) Any amount invested through the mutual fund window at the time the participant makes a loan request will not be considered for purposes of determining either the minimum or maximum loan amounts.

[68 FR 35515, June 13, 2003, as amended at 87 FR 31692, May 24, 2022]

### § 1655.7 Interest rate.

(a) Except as provided in paragraph (b) of this section, loans will bear interest at the monthly G Fund interest rate established by the Department of the Treasury in effect on the 15th of

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the month prior to the date the loan request is made.

(b) The interest rate calculated under this section remains fixed until the loan is repaid, unless a civilian participant informs the TSP record keeper that he or she entered into active duty military service, and, as a result, requests that the interest rate on a loan issued before entry into active duty military service be reduced to an annual rate of 6 percent for the period of such service. The civilian participant must provide the record keeper with the beginning and ending dates of active duty military service.

[68 FR 35515, June 13, 2003, as amended at 87 FR 31692, May 24, 2022]

### § 1655.8 [Reserved]

### § 1655.9 Effect of loans on individual account.

(a) The amount borrowed will be removed from the participant's account when the loan is disbursed. Consequently, these funds will no longer generate earnings.

(b) The loan principal will be disbursed from that portion of the account represented by employee contributions and attributable earnings, *pro rata* from each TSP core fund in which the account is invested and *pro rata* from tax-deferred and tax-exempt balances.

(c) The loan principal will be disbursed *pro rata* from the participant's traditional and Roth balances. The disbursement from the traditional balance will be further *pro rated* between the tax-deferred balance and tax-exempt balance. The disbursement from the Roth balance will be further *pro rated* between contributions in the Roth balance and earnings in the Roth balance. In addition, all loan disbursements will be distributed *pro rata* from all TSP core funds in which the participant's account is invested. All *pro rated* amounts will be based on the balances in each TSP core fund or source of contributions on the day the disbursement is processed.

(d) Loan payments, including both principal and interest, will be credited to the participant's individual account. Loan payments will be credited to the appropriate TSP Fund in accordance

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with the participant's most recent contribution allocation. Loan payments will be credited to the participant's traditional and Roth balances in the same proportion that the loan was distributed from the participant's account.

(e) Loan disbursements will not be made from any amounts invested through the mutual fund window and loan payments will not be credited to a participant's mutual fund window account.

[68 FR 35515, June 13, 2003, as amended at 70 FR 32218, June 1, 2005; 77 FR 26429, May 4, 2012; 87 FR 31692, May 24, 2022]

### § 1655.10 Loan request process.

(a) Any participant may apply for a loan by submitting a completed TSP loan request in the form and manner prescribed by the TSP record keeper.

(b) If a participant has a uniformed services account and a civilian account, a separate loan request must be made for each account.

[87 FR 31693, May 24, 2022]

### § 1655.11 Loan acceptance.

If the requirements set forth in §§1655.2, 1655.4, and 1655.6(a) are satisfied, the TSP record keeper will nevertheless reject a loan request if:

(a) The participant has failed to provide all required information on the loan request;

(b) The participant has a pending loan request or in-service withdrawal request; or

(c) A hold has been placed on the account pursuant to 5 CFR 1653.3(c).

[87 FR 31693, May 24, 2022]

### § 1655.12 Loan agreement.

(a) Upon determining that a loan request meets the requirements of this part, the TSP record keeper will provide the participant with the terms and conditions of the loan.

(b) By accepting the loan agreement, the participant agrees to be bound by all of its terms and conditions, agrees to repay the loan by payroll deduction, and certifies, under penalty of perjury, to the truth and completeness of all statements made in the loan request and loan agreement to the best of his or her knowledge.

(c) For loan requests not completed on the TSP website, the TSP record keeper must receive the completed loan agreement (including any required supporting documentation) before the expiration date stated on the loan agreement or the agreement will not be processed.

(d) The signed loan agreement must be accompanied by:

(1) In the case of a residential loan, supporting materials that document the purchase or construction of the residence and the amount requested (as described in §1655.20); and

(2) Any other information that the Executive Director may require.

(e) A participant may request, in the form and manner prescribed by the TSP record keeper, that the loan be disbursed by direct deposit to a checking or savings account maintained by the participant in a financial institution.

[87 FR 31693, May 24, 2022]

### § 1655.13 Loan approval and issuance.

(a) When the completed loan agreement is signed electronically or returned by the participant to the TSP record keeper, together with any documentation required to be submitted, the loan will be initially approved or denied by the TSP record keeper based upon the requirements of this part, including the following conditions:

(1) The participant has signed the promise to repay the loan, has agreed to repay the loan through payroll deductions, and has certified that the information given is true and complete to the best of the participant's knowledge;

(2) Processing of the loan would not be prohibited by §1655.19 relating to court orders;

(3) The spouse of a FERS or uniformed services participant has consented to the loan or, if the spouse's whereabouts are unknown or exceptional circumstances make it inappropriate to secure the spouse's consent, an exception to the spousal requirement described in §1655.18 has been granted;

(4) The spouse of a CSRS participant has been given notice or, if the spouse's

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whereabouts are unknown, an exception to the spousal requirement described in §1655.18 has been granted;

(5) When a paper agreement is required, the completed loan agreement, including all required supporting documentation, was received by the TSP record keeper before the expiration date specified on the loan agreement; and

(6) The participant has met any other conditions that the Executive Director may require.

(b) If approved, the loan will be issued unless:

(1) The participant's employing agency has reported the participant's separation from Government service;

(2) The TSP record keeper receives written notice that the participant has died;

(3) The participant's account balance on the loan issue date does not contain sufficient employee contributions and associated earnings to make a loan of at least \$1,000;

(4) A hold on the account is processed before the loan is disbursed; or

(c) If the loan is otherwise acceptable but the amount available to borrow is less than the requested amount (but is at least \$1,000), the loan will be issued in the maximum amount available at the time of the disbursement. In such a case, the periodic payment amount will remain the same and the loan term may be shortened.

(d) The loan issue date is considered to be the date the loan was made.

(e) If a loan disbursement is returned as undeliverable, the TSP record keeper will attempt to locate the participant. If the participant does not respond within 90 days, the TSP record keeper will repay the loan with the returned loan proceeds.

[68 FR 35515, June 13, 2003, as amended at 87 FR 31693, May 24, 2022]

### § 1655.14 Loan payments.

(a) In the case of a participant who has not separated from Government service, loan payments must be made through payroll deduction in accordance with the loan agreement. Once loan payments begin, the employing agency cannot terminate the payroll deductions at the employee's request,

unless the TSP or its record keeper instructs it to do so.

(b) The participant may make additional payments by mailing a check or guaranteed funds to the TSP record keeper or by enrolling in loan direct debit repayments from his or her personal savings or checking account. If the TSP record keeper receives a payment that repays the outstanding loan amount and overpays the loan by \$10.00 or more, the overpayment will be refunded to the participant. Overpayments of less than \$10.00 will be applied to the participant's account and will not be refunded. If a loan overpayment refund is returned as undeliverable, the TSP record keeper will attempt to locate the participant. If the participant does not respond within 90 days, the overpayment refund will be forfeited to the TSP. The participant can claim the forfeited funds, although they will not be credited with TSP investment fund returns.

(c) The initial payment on a loan is due on or before the 60th day following the loan issue date. Interest accrues on the loan from the date of issuance.

(d) Subsequent payments are due at regular intervals as prescribed in the loan agreement, or most recent amortization, according to the participant's pay cycle.

(e) In the case of a participant who has not separated from Government service, if a payment is not made when due, the TSP record keeper will notify the participant of the missed payment and the participant must make up the payment in full. The participant's make-up payment must be in the form of a check, guaranteed funds, or a one-time payment via loan direct debit from his or her personal savings or checking account. If the participant does not make up all missed payments by the end of the calendar quarter following the calendar quarter in which the first payment was missed, the TSP record keeper will declare the loan to be a deemed distribution in accordance with §1655.15(a). The declaration of a deemed distribution does not relieve the participant of his or her obligation to repay the amount.

(f) Interest will accrue on all missed payments and will be included in the calculation of any deemed distribution

subsequently declared in accordance with § 1655.15(a). Interest will also accrue on payments missed while a participant is in nonpay status and on any deemed distribution until it is repaid in full.

(g) A participant who has separated from Government service with an outstanding loan balance may continue making loan repayments via check, guaranteed funds, or loan direct debit repayments. If a separated participant does not begin making post-separation loan repayments or pay off the loan in full by the deadline imposed by the TSP record keeper, the TSP record keeper will declare the outstanding loan balance and accrued interest to be a loan offset in accordance with § 1655.15(b). In the case of a separated participant who commences post-separation loan repayments, if a payment is not made when due, the TSP record keeper will notify the separated participant of the missed payment and he or she must make up the payment in full. The make-up payment must be in the form of a check, guaranteed funds, or a one-time payment via loan direct debit from his or her personal savings or checking account. If the participant does not make up all missed payments by the end of the calendar quarter following the calendar quarter in which the first payment was missed, the TSP record keeper will declare the outstanding loan balance and accrued interest to be a loan offset in accordance with § 1655.15(b).

[87 FR 31693, May 24, 2022]

#### **§ 1655.15 Deemed Distributions and Loan Offsets.**

(a) The TSP record keeper will ensure that all requirements set forth in section 72(p) of the Internal Revenue Code and the regulations promulgated thereunder with respect to deemed distributions are satisfied.

(1) The TSP record keeper will declare the entire unpaid balance of an outstanding loan (including interest) to be a deemed distribution if:

(i) The participant misses two or more loan payments or the participant's payments are made for less than the required amount, and the delinquency is not cured within the cure period;

(ii) The loan is not repaid in full by the maximum term limit; or

(iii) A participant is in a confirmed nonpay status for a period of one year or more, has not advised the TSP record keeper that he or she is serving on active military duty, and payments are not resumed after the participant is notified the loan has been reamortized.

(2) Loan taxation does not relieve a participant of his or her obligation to repay the taxed loan amount. A participant may repay a taxed loan in full (including accrued interest) via check or money order up until the time he or she separates from Government service. The tax basis in a participant's TSP account will be adjusted to reflect the repayment of a taxed loan.

(3) If a participant does not repay a taxed loan:

(i) His or her account balance will be permanently reduced; and

(ii) The taxed loan will count as one of the two loans the participant is permitted per account and is treated as an outstanding loan balance when calculating the participant's maximum loan amount.

(b) The TSP record keeper will ensure that all requirements set forth in section 72(p) of the Internal Revenue Code and the regulations promulgated thereunder with respect to loan offsets are satisfied.

(1) The TSP record keeper will declare a loan offset in the following situations:

(i) A participant separates from Government service and does not begin making loan repayments or repay the outstanding loan principal and interest in full within the period specified by the notice to the participant from the TSP record keeper explaining the participant's repayment options; or

(ii) The participant dies.

(2) [Reserved]

(c) If a deemed distribution or loan offset occurs in accordance with paragraph (a) or (b) of this section, as applicable, the TSP record keeper will notify the participant of the amount and date of the distribution. The TSP record keeper will report the distribution to the Internal Revenue Service as income for the year in which it occurs.

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(d) If a participant dies and a loan offset occurs in accordance with paragraph (b) of this section, the TSP record keeper will notify the participant's estate of the amount and date of the distribution. Neither the estate nor any other person, including a beneficiary, may repay the loan of a deceased participant, nor can the funds be returned to the TSP.

(e) If, because of Board or TSP record keeper error, a TSP loan is declared a deemed distribution or loan offset under circumstances that make such a declaration inconsistent with this part, or inconsistent with other procedures established by the Board or TSP record keeper in connection with the TSP loan program, the distribution will be reversed. The participant will be provided an opportunity to reinstate loan payments or repay in full the outstanding balance on the loan.

[87 FR 31693, May 24, 2022]

### § 1655.16 Reamortization.

(a) When a participant's pay cycle changes for any reason, he or she must notify the TSP record keeper of the change in the form and manner prescribed by the TSP record keeper. Upon notification, the participant's loan will be reamortized to adjust the scheduled payment to an equivalent amount in the new pay cycle. If the new pay cycle results in fewer payments per year and the participant does not reamortize the loan, the loan may be declared a deemed distribution pursuant to § 1655.15(a)(1).

(b) Upon reamortization, the outstanding principal balance remains the same. Any accrued interest is paid off first before payments are applied to principal and current interest.

(c) The interest rate on a reamortized loan will be the same as the interest rate on the original loan.

[87 FR 31694, May 24, 2022]

### § 1655.17 Prepayment.

(a) A participant may repay a loan in full, without a penalty, at any time before the declaration of a deemed distribution or loan foreclosure under § 1655.15. Repayment in full means receipt by the TSP record keeper of a payment, by check or guaranteed funds

made payable to the Thrift Savings Plan or via loan direct debit repayments, of all principal and interest due on the loan.

(b) If a participant returns a loan check to the TSP record keeper, it will be treated as a repayment; however, additional interest may be owed, which, if not paid, could result in a deemed distribution. The loan, even though repaid, will also be taken into account in determining the maximum amount available for future loans, in accordance with § 1655.6(b).

(c) The amount outstanding on a loan can be obtained from the TSP website, the ThriftLine, or by a written request to the TSP record keeper.

[87 FR 31694, May 24, 2022]

### § 1655.18 Spousal rights.

(a) *Spouse of CSRS participant.* (1) Before a loan is disbursed to a CSRS participant, the TSP record keeper will send a notice to the participant's current spouse that the participant has applied for a loan.

(2) A CSRS participant may obtain an exception to the requirement described in paragraph (a)(1) of this section if the participant establishes, to the satisfaction of the Executive Director, that the spouse's whereabouts are unknown as described in paragraph (c) of this section.

(b) *Spouse of FERS or uniformed services participant.* (1) Before a loan agreement is approved for a FERS or uniformed services participant, the spouse must consent to the loan by signing the loan agreement.

(2) A FERS or uniformed services participant may obtain an exception to the requirement described in paragraph (b)(1) of this section if the participant establishes, to the satisfaction of the Executive Director, that:

(i) The spouse's whereabouts are unknown; or

(ii) Exceptional circumstances prevent the participant from obtaining the spouse's consent.

(c) *Exception to spousal requirements.* The procedures for obtaining an exception to the spousal requirements described in paragraphs (a)(1) and (b)(1) of this section are the same as the procedures described in 5 CFR part 1650, subpart G.

(d) *Certification of truthfulness.* By completing a loan request, the participant certifies, under penalty of perjury, that all information provided to the TSP record keeper during the loan process is true and complete, including statements concerning the participant's marital status, the spouse's email or physical address at the time the application is filed, or the current spouse's consent to the loan.

[68 FR 35515, June 13, 2003, as amended at 68 FR 74451, Dec. 23, 2003; 87 FR 31694, May 24, 2022]

#### **§ 1655.19 Effect of court order on loan.**

Upon receipt of a document that purports to be a qualifying retirement benefits court order, qualifying legal process relating to a participant's legal obligation to provide child support or to make alimony payments, or a qualifying child abuse order, the participant's TSP account will be frozen. After the account is frozen, no loan will be allowed until the account is unfrozen. The Board's procedures for processing court orders and legal processes are explained in 5 CFR part 1653.

#### **§ 1655.20 Residential loans.**

(a) A residential loan will be made only for the purchase or construction of the primary residence of the participant, or for the participant and his or her spouse, and for the amount required to close on the purchase. The participant must actually bear all or part of the cost of the purchase. If the participant purchases a primary residence with someone other than his or her spouse, only the portion of the purchase costs that is borne by the participant will be considered in making the loan. A residential loan will not be made for the purpose of paying off an existing mortgage or otherwise providing financing for a previously purchased primary residence.

(b) The participant's primary residence is his or her principal residence. A primary residence may include a house, a townhouse, a condominium, a share in a cooperative housing corporation, or a mobile home; a primary residence does not include a second home or vacation home. A participant cannot have more than one primary residence.

(c) Purchase of a primary residence means acquisition of the residence through the exchange of cash or other property or through the total construction of a new residence. A residential loan will not be made for a lease-to-buy option, unless the option to buy is being exercised and the documentation states that the funds are being used to purchase the primary residence. Construction of an addition to or the renovation of a residence or the purchase of land only does not constitute the purchase of a primary residence.

(d) The amount required to close on the purchase of a primary residence does not include points or loan origination fees charged for a loan. In addition, real estate taxes cannot be included.

(e) The documentation required for a loan under this section is as follows:

(1) For all purchases, except for construction, a signed sale/purchase contract/settlement offer or agreement or addendum; or

(2) For construction, a signed builder's agreement/contract; and

(3) For requests including closing costs and/or settlement charges, a loan estimate/worksheet/statement/closing disclosure from a mortgage company.

(f) The documentation provided under this section must meet the requirements set forth by the TSP record keeper.

[87 FR 31694, May 24, 2022]

#### **§ 1655.21 Loan fee.**

The TSP will charge a participant a \$50.00 loan fee when it disburses a general purpose loan and a \$100.00 loan fee when it disburses a residential loan and will deduct the applicable fee from the proceeds of the loan.

[87 FR 31695, May 24, 2022]

## **PART 1690—THRIFT SAVINGS PLAN**

### **Subpart A—General**

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1690.1 Definitions.

### **Subpart B—Miscellaneous**

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